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99TH CONGRESS 2d Session | SENATE | REPORT 99-381

MF240

# FOR THE RELIEF OF THE WASHOE COUNTY WATER CONSERVATION DISTRICT, NEVADA

AUGUST 7 (legislative day, AUGUST 4), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

ORIGINAL

[To accompany S. 1319]

The Committee on Energy and Natural Resources to which was referred the bill (S. 1319) to relieve the Washoe County Water Conservation District, Nevada, of certain Federal repayment obligations, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 1, line 6, following "States" insert the following phrase: "of an amount not to exceed $12,500 expended".

### PURPOSE

As ordered reported, S. 1319 would relieve the Washoe County Water Conservation District of repaying an amount not to exceed $12,500 to the Federal Government. The amount was expended by the Bureau of Reclamation in the period 1965–67 for emergency work at Boca Dam, a feature of the Truckee Storage Project, Nevada/California.

### BACKGROUND

Boca Dam and Reservoir on the Little Truckee River store water for Truckee River regualtion and irrigation of lands on the Truckee Storage and Newlands Projects. The dam was completed in 1939 and has an active storage capacity of 41,000 acre-feet.

In 1965, it was determined that a maximum predictable flood would overtop Boca Dam and remedial measures (sandbagging and

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plywood barriers) were put in place by the Bureau of Reclamation. In 1969, the temporary measures were removed because the hazard to Boca Dam was reduced by the completion of Stampede Dam upstream. The work at Boca Dam was accomplished pursuant to the Emergency Fund Act of 1948, and therefore was considered a reimbursable cost.

Subsequently, the Congress enacted the Safety of Dams Act of 1978 (Public Law 95-578) which would make similar expenditures nonreimbursable. Amendments to the Safety of Dams Act enacted in 1984, provide for 15 percent of the costs of dam safety measures to be allocated to project purposes for repayment pursuant to Reclamation law.

As reported, S. 1319 is consistent with the intent and purpose of the original Safety of Dams Act.

## LEGISLATIVE HISTORY

S. 1319 was introduced by Senators Laxalt and Hecht on June 18, 1985. A hearing was held before the Subcommittee on Water and Power on April 17, 1986 (S. Hrg. 99-607). An identical measure, S. 536, was introduced in the 98th Congress with no action taken.

## COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on July 30, 1986, by majority vote of a quorum present, recommended that the Senate pass S. 1319, if amended as described herein.

The rollcall vote on reporting the measure was 16 yeas, 1 nay, as follows:

| YEAS | NAYS |
|---|---|
| Mr. McClure | Mr. Metzenbaum* |
| Mr. Hatfield* | |
| Mr. Domenici* | |
| Mr. Wallop* | |
| Mr. Warner | |
| Mr. Murkowski | |
| Mr. Nickles | |
| Mr. Hecht | |
| Mr. Evans | |
| Mr. Johnston | |
| Mr. Bumpers | |
| Mr. Ford | |
| Mr. Melcher | |
| Mr. Bradley* | |
| Mr. Bingaman | |
| Mr. Rockefeller | |

*Indicates voted by proxy

## COMMITTEE AMENDMENT

The amendment establishes a ceiling on the amount that the Washoe County Water Conservation District is relieved from repaying to the Federal Government.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, August 1, 1986.*

Hon. JAMES A MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1319, a bill to relieve the Washoe County Water Conservation District, Nevada, of certain federal repayment obligations, as ordered reported by the Senate Committee on Energy and Natural Resources on July 30, 1986.

S. 1319 would relieve the Washoe County Water Conservation District of any repayment obligation to the United States, of an amount not to exceed $12,500, in connection with work performed at Boca Dam in 1965 and 1967. This bill would therefore result in a loss of potential repayments to the federal government, totaling about $12,500. It is unclear, however, whether the government would otherwise ever receive this sum, because the water district, to date, has not agreed that it is obligated to make such payment.

Enactment of this bill would not otherwise affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1319.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected as a result of enactment and implementation of S. 1319. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1319.

## EXECUTIVE COMMUNICATIONS

On November 25, 1985, the Committee requested legislative reports on S. 1319 from the Department of the Interior and the Office of Management and Budget. The report from the Department of Interior was received on June 4, 1986 and is set forth below.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, DC, June 3, 1986.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1319, a bill "To relieve the Washoe County Water Conservation District, Nevada, of certain Federal repayment obligations."

The Department has no objection to enactment of S. 1319. We also believe that a clarifying amendment to the bill is in order.

S. 1319 would relieve the Washoe County Water Conservation District of any repayment or reimbursement obligation to the United States in connection with emergency work performed at Boca Dam in 1965 and 1967.

Boca Dam of the Truckee Storage Project was originally constructed by the Bureau of Reclamation in 1939. In 1964, the Bureau updated and revised its projection of the probable maximum flood as a result of additional hydrologic data. The revised inflow design flood data indicated that Boca Dam would have to be modified to prevent possible failure from overtopping. Corrective alternatives were examined. The possibilities of increasing the capacity of the outlet works, enlarging the spillway, and raising the dam elevation were considered but not adopted as a result of prohibitive costs.

Our analysis in 1964 indicated that the most cost effective alternative was to expedite the construction of Stampeded Dam. Stampeded Dam, an integral feature of the Washoe Project on the Little Truckee River, was authorized to be constructed upstream from Boca Dam and had the necessary flood control protection to prevent structural damage to Boca Dam. In the interim period before Stampede Dam could be constructed, however, certain corrective measures were required at Boca Dam to protect the dam from possible failure during large spillway discharges. The cost of this corrective action, which is the emergency work referenced in S. 1319, totalled approximately $12,500.

At present, the Washoe County Water Conservation District operates and maintains Boca Dam and is the primary contracting entity. At the time the proposed corrective action measures were contemplated, the District was informed that the Department was proposing legislation to seek nonreimburable funding for safety oriented modifications on Bureau constructed dams. However, since the potential for failure was viewed to be high, corrective action measures at Boca Dam were undertaken before the enactment of the Reclamation Safety of Dams Act of 1978 (Public Law 95-578; 92 Stat. 2471).

The emergency work in question was accomplished pursuant to the Emergency Fund Act of 1948 (Act of June 26, 1948; 62 Stat. 1052). This Act requires full reimbursement for all Federal funds that are expended. As safety of dams legislation was being considered prior to 1978, considertion was given to making the emergency expenditure on Boca Dam nonreimbursable, retroactively. The Act that finally passed did not contain such a provision.

The Safety of Dams Act of 1978 authorizes the Secretary of the Interior to make necessary modifications at existing Federal Reclamation dams for safety of dams purposes. The 1978 Act provides for nonreimbursable funding of such modifications provided that they are the direct result of new hydrologic or seismic data or changes in design and construction criteria for the construction of dams. The emergency work performed on Boca Dam prior to 1978 meets the test requirements for nonreimbursability. As required by the Reclamation Safety of Dams Act Amendments of 1984 (Public Law 98–404; 98 Stat. 1481), such work is now subject to 15 percent local costs sharing.

The original work was to safeguard the structural integrity of Boca Dam from revised inflow design flood until the authorized Stampede Dam could be constructed. Because of the unique circumstances surrounding this project, and since we do not view S. 1319 as establishing any precedent for other safety of dams work undertaken by the Bureau of Reclamation prior to 1978, we have no serious objections to the proposed legislation.

We do believe that a specific dollar amount should be addressed in S. 1319. The exact dollar charges associated with the corrective action measures at Boca Dam for the emergency work performed in 1965 and 1967 totalled $12,496. We have enclosed a draft amendment to carry out this recommendation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WAYNE N. MARCHANT,
*Assistant Secretary,*

Enclosure.

DEPARTMENT OF THE INTERIOR PROPOSED AMENDMENTS TO S. 1319

Page 1, line 6, strike out "in connection with" and insert in lieu thereof "for $12,496 in".

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law would be made by the bill, S. 1319, as reported.

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